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U.S. Citizenship
and Immigration
Services

L2

[REDACTED]

FILE: [REDACTED]
MSC 02 348 61342

Office: ATLANTA

Date: DEC 27 2007

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by LIFE Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the National Benefits Center. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, Atlanta, Georgia, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The district director denied the application because she determined that the applicant failed to demonstrate that he had continuously resided in the United States in an unlawful status from before January 1, 1982, through May 4, 1988. She further determined that the applicant failed to establish that he was physically present in the United States from November 6, 1986, through May 4, 1988.

On appeal, counsel asserts that the applicant has maintained continuous, unbroken physical presence in the United States since January 1, 1982, and thus qualifies for adjustment under the LIFE Act.

An applicant for permanent resident status under section 1104 of the LIFE Act must establish entry into the United States before January 1, 1982 and continuous residence in the United States in an unlawful status since such date through May 4, 1988. Section 1104(c)(2)(B) of the LIFE Act and 8 C.F.R. § 245a.11(b).

An applicant for permanent resident status under section 1104 of the LIFE Act has the burden to establish by a preponderance of the evidence that he or she has resided in the United States for the requisite periods, is admissible to the United States and is otherwise eligible for adjustment of status under this section. The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. 8 C.F.R. § 245a.12(e).

The "preponderance of the evidence" standard requires that the evidence demonstrate that the applicant's claim is "probably true," where the determination of "truth" is made based on the factual circumstances of each individual case. *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm. 1989). In evaluating the evidence, *Matter of E-M-* also stated that "[t]ruth is to be determined not by the quantity of evidence alone but by its quality." *Id.* Thus, in adjudicating the application pursuant to the preponderance of the evidence standard, the director must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.

Even if the director has some doubt as to the truth, if the applicant submits relevant, probative, and credible evidence that leads the director to believe that the claim is "probably true" or "more likely than not," the applicant or applicant has satisfied the standard of proof. *See U.S. v. Cardozo-Fonseca*, 480 U.S. 421 (1987) (defining "more likely than not" as a greater than 50 percent probability of something occurring). If the director can articulate a material doubt, it is appropriate for the director to either request additional evidence or, if that doubt leads the director to believe that the claim is probably not true, deny the application.

Although the regulations provide an illustrative list of contemporaneous documents that an applicant may submit, the list also permits the submission of affidavits and any other relevant document. *See* 8 C.F.R. § 245a.2(d)(3)(vi)(L).

The regulation at 8 C.F.R. § 245a.2(d)(3)(i) states that letters from employers attesting to an applicant's employment must: provide the applicant's address at the time of employment; identify the exact period of employment; show periods of layoff; state the applicant's duties; declare whether the information was taken from company records; and identify the location of such company records and state whether such records are accessible or in the alternative state the reason why such records are unavailable.

In the Notice of Intent to Deny (NOID), dated May 4, 2005, the director stated that the applicant failed to establish or submit sufficient evidence of continuous residence in the United States during the required period. The director granted the applicant thirty (30) days to rebut and/or submit evidence to overcome the denial. In a letter dated June 2, 2005, counsel submitted evidence in support of the applicant's claim of continuous unlawful residence during the requisite period.

In a June 13, 2005, Notice of Decision, the director stated that the applicant failed to overcome the denial grounds in the NOID. On appeal, counsel asserts that the applicant has maintained continuous, unbroken physical presence in the United States since 1980. Counsel submits additional evidence in support of the applicant's claim.)

At issue in this proceeding is whether the applicant submitted sufficient credible evidence to establish continuous residence in an unlawful status in the United States from prior to January 1, 1982, through May 4, 1988. Here, the submitted evidence is not relevant, probative and credible.

The applicant submitted a January 18, 1990, letter by supervisor [REDACTED] of Enterprise. Mr. [REDACTED] stated that the applicant had been an employee of the company for the past four years. Mr. [REDACTED] failed to provide the applicant's address at the time of employment, identify the exact period of employment, show periods of layoff, state the applicant's duties, declare whether the information was taken from company records, and identify the location of such company records and state whether such records are accessible or in the alternative state the reason why such records are unavailable as required under 8 C.F.R. § 245a.2(d)(3)(i).

The record includes a color photocopy of an envelope addressed to the applicant at [REDACTED] from Ghana, postmarked on February 15, 1988. One letter does not establish continuous residence during the requisite period.

The record contains an October 1, 2003, letter by [REDACTED] Mr. [REDACTED] stated that he has known the applicant since 1981 when the applicant resided on [REDACTED], that they first met at a meeting of Ga-Adangbe tribe in New York, and they both became members of that organization. The affiant left New York and, after several years, met the applicant at the Georgia Chapter of [REDACTED]. The affiant provided his telephone number and address. The affiant did not provide specific information regarding the applicant's residence during the time period in question. It is noted that the applicant failed to list an affiliation with the [REDACTED] organization on his Form I-485 dated September 13, 2002.

The record also contains a September 30, 2003, letter by [REDACTED] stated that he met the applicant at a church conference in New York in 1981, and the applicant paid him numerous visits in Boston, Massachusetts. The affiant provided his address. The affiant did not provide specific information regarding the applicant's continuous residence during the requisite period. He failed to indicate how frequently he saw the applicant during the requisite period.

The record contains a statement, dated February 21, 2005, by [REDACTED] who stated that he resided at [REDACTED] in Bronx, New York. He also stated that the applicant sub-rented one of his three bedrooms for \$600.00 a month, including utilities, in October 1980. The applicant terminated the agreement when he left for Georgia in 1992. In a January 31, 1989, sworn affidavit of residence, Mr. [REDACTED] stated that the applicant resided with him from December 1980. In one affidavit, the affiant stated the applicant resided with him in October 1980; whereas in another affidavit he stated December 1980. There is no explanation to resolve this inconsistency. Furthermore, the affiant failed to provide any supporting or contemporaneous evidence such as utility bills or rent receipts to support his claim.

The record contains a letter dated July 20, 2005 from Rev. [REDACTED] of the Christ Pentecostal International Church, located in the Bronx. The author states that the applicant has been a member of the church from 1982 to 1985. This letter does not meet the requirements of the regulation at 8 C.F.R. § 245a.2(d)(3)(v) in that it fails to state the address where the applicant resided during the membership period, how the author knows the applicant and the origin of the information being attested to.

A few errors or minor discrepancies are not reason to question the credibility of an alien or an employer seeking immigration benefits. *See, e.g., Spencer Enterprises Inc. v. U.S.*, 345 F.3d 683, 694 (9th Cir., 2003). However, anytime an application includes numerous errors and discrepancies, and the applicant fails to resolve those errors and discrepancies after CIS provides an opportunity to do so, those inconsistencies will raise serious concerns about the veracity of the applicant's assertions.

The AAO agrees with the director and finds that the applicant failed to meet his burden of proof. The record contains multiple inconsistencies and contradictory statements by the applicant and affiants. The absence of consistent supporting documentation to corroborate the applicant's claim of continuous physical presence and unlawful residence during the requisite period seriously detracts from the credibility of his claim. Pursuant to 8 C.F.R. § 245a.2(d)(5), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification.

Therefore, based on the above, the applicant has failed to establish continuous unlawful residence and physical presence in the United States during the requisite periods by the LIFE Act. Given this, he is ineligible for permanent resident status under Section 1104 of the LIFE Act.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.